

Remarks/Arguments:

I. Status

The Office Action dated December 27, 2004 (the "Office Action"), has been carefully reviewed. Claim 18 has been amended to depend from claim 16 to provide proper antecedent basis. Claims 24 and 25 have been added. Accordingly, claims 1-25 are pending in this application. Reconsideration of this application is respectfully requested.

II. 35 U.S.C. § 103 Rejections.

A. Claims 1-3, 8-10, 15-17 and 21-23 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,088,683 to Jalili (hereinafter "Jalili") in view of U.S. Patent Publication No. US 2002/0147658 A1 of Kwan (hereinafter "Kwan").

Reconsideration of these claims in view of the following remarks is respectfully requested.

The Present Invention

The present invention comprises a system for supporting transactions billed to an account associated with a cellular telephone. A consumer selects products and presents them at a merchant's terminal where the products are identified to the terminal in the normal manner. In one non-limiting embodiment, the total amount of the transaction, a transaction code, and a payment processing center telephone number are presented to the consumer. The consumer then places a call to the payment processing center and enters

the transaction code. At or about the same time, the merchant terminal sends merchant transaction data to the payment processing center.

A transaction record generator at the payment processing center receives consumer transaction data and merchant transaction data and correlates the two. The consumer transaction data may include, in addition to the transaction number, cellular phone identification such as the cellular phone number, an electronic serial number, a merchant identifier, and/or the transaction amount. The merchant transaction data includes the total amount of the transaction, and may further include a merchant identification code, and or a transaction identification code. The merchant identification code may identify the retailer, the particular store, a city and state, and/or terminal identification. Once the merchant transaction data and the consumer transaction data are correlated, a transaction record is generated that includes at least some of the merchant transaction data as well as at least some of the consumer transaction data.

The transaction record generator may then query a billing platform associated with the cellular phone to obtain approval for payment of the transaction. If approved, an approval code is generated and transmitted to either the cellular phone and/or the merchant's terminal. The goods are then released to the consumer.

Jalili

Jalili discloses a method and system of purchasing items over the internet. (Jalili at column 2, lines 15-17 and FIG.). Accordingly, data from the merchant is sent to a processing center from the merchant's website. (Id. at column 2, lines 22-23). At some undisclosed time following the receipt of the data from the merchant, the customer

accesses the processing center from the customer's location using a telephone or a modem. (Id. at column 2, lines 40-41). After being identified by the entry of a personal identification number, the customer is presented with a list of outstanding invoices. (Id. at column 2, lines 41-44 and 49-53). If desired, the customer selects any desired invoice(s). (Id. at column 2, lines 50-52). When the *customer* approves the invoice, the sale is completed. (Id. at column 2, lines 54-58 and column 3, lines 1-3).

Thus, Jalili discloses a system a customer uses a personal computer to browse the Internet and make purchase selections. Invoices for the customer's selections are generated by the merchant and sent to a processing center where they are stored. At some later time, the customer accesses an account at the processing center and authorizes payment of specific invoices.

Discussion Re: Patentability of Claim 1

1. Claim 1

Claim 1 recites:

A system for supporting consumer transactions billed to an account through a cellular telephone comprising:
a merchant data receiver for receiving merchant transaction data from a merchant terminal at a transaction site;
a consumer data receiver for receiving consumer transaction data from a cellular telephone at the transaction site; and
a transaction processor for processing the merchant transaction data and the consumer transaction data to access a financial account so that approval for a transaction at the transaction site may be obtained.

Claim 1 thus recites a merchant data receiver that receives merchant transaction data from a *merchant terminal*, and a consumer data receiver that receives consumer transaction data from a cellular telephone located at the same location as the merchant terminal. Claim 1 also recites a transaction processor that processes both received inputs,

that is, a transaction related input from a terminal and a transaction related input from a cellular phone, to access a financial account.

2. Jalili Does Not Disclose a Merchant Terminal

The Office action alleged that Jalili disclosed all of the limitations of claim 1 with the exception of a cellular phone. Respectfully, Jalili has been mischaracterized.

Specifically, Jalili discloses a customer accessing a “merchant” over the internet. (See Jalili at FIG. and column 2, lines 15-17). However, Jalili does not suggest that the “merchant” is anything other than an internet server. (See e.g. *Id.* at column 2, lines 15-17). A “server” is defined as “a computer running administrative software that controls access to all or part of the network and its resources”. (*Computer Dictionary*, Microsoft Press, © 1991). A “terminal” is defined as “[a] device consisting of a video adapter, a monitor and a keyboard”. (*Computer Dictionary*, Microsoft Press, © 1991). Accordingly, a “server” is not inherently a “terminal” and Jalili does not disclose any detail about the “merchant” other than that it is accessed over a public network. Therefore, Jalili does not disclose a merchant terminal as recited in claim 1.

Thus, even accepting *arguendo* the proposed combination so as to include a cellular phone at some point in the system of Jalili, the proposed combination does not arrive at the invention recited in claim 1. Accordingly, under MPEP § 2143.03, claim 1 is patentable over the prior art.

3. Jalili's Merchant Data is Not Processed to Access Financial Account

Moreover, claim 1 recites that both the merchant data and the customer data, both of which are sent from the transaction site, are used to access a financial account. Jalili does not disclose merchant data i) received from the transaction site that is ii) used to access a financial account as claimed.

Specifically, Jalili discloses that some data is sent from the "merchant" to the processing center. (See e.g. Jalili at column 2, lines 28-31). However, the data from the "merchant" of Jalili is not used to access a financial account. Rather, access to a financial account appears to be based upon the entry of the proper personal identification number (PIN) by a user and subsequent approval of the sale by the user. (Jalili at column 2, lines 40-44 and 49-53). The approval of a particular invoice is indicated either verbally or by pressing the number on a telephone corresponding to the listed order of the approved invoice. (Id. at column 2, lines 57-64) However, both the PIN and the number on the telephone entered by the user in response to a list generated by the processing center come from the *user's* telephone or computer.

Therefore, even assuming *arguendo* that the PIN or approval code of Jalili could be interpreted as being "merchant data", neither of them are sent from a merchant terminal. Thus, Jalili does not disclose the use of merchant data received from a merchant terminal at the transaction site to access a financial account as recited in claim 1. Accordingly, even accepting the proposed combination so as to include a cellular phone at some point in the system of Jalili, the proposed combination does not arrive at the invention recited in claim 1 and under MPEP § 2143.03, claim 1 is patentable over the prior art.

4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 1 as being obvious over Jalili in view of Kwan has been successfully traversed, and the Applicants respectfully submit that the rejection of claim 1 under 35 U.S.C. § 103 should be withdrawn.

Discussion Re: Patentability of Claims 2 and 3

Claims 2 and 3 depend from claim 1 and include the limitations discussed above with respect to claim 1 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 1, claims 2 and 3 are patentable over the prior art.

Discussion Re: Patentability of Claim 8

Claim 8 recites:

A system for supporting transactions billed to an account associated with a cellular telephone comprising:
a merchant terminal for generating and sending merchant transaction data;
a consumer data receiver for receiving consumer transaction data from a cellular telephone at the transaction site; and
a transaction processor for processing the merchant transaction data and the consumer transaction data to access a financial account so that approval for a transaction at the transaction site may be obtained.

Claim 8 thus recites a *merchant terminal* that generates and sends merchant transaction data and that the merchant data is used to access a financial account. As set forth above, Jalili does not disclose a merchant terminal or the use of merchant data to access a financial account. Accordingly, for at least the same reasons as set forth above with respect to claim 1, claim 8 is patentable over the prior art.

Discussion Re: Patentability of Claims 9 and 10

Claims 9 and 10 depend from claim 8 and include the limitation discussed above with respect to claim 8 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 8, claims 9 and 10 are patentable over the prior art.

Discussion Re: Patentability of Claim 15

Claim 15 recites:

A method for supporting payment of a consumer transaction through an account associated with a cellular telephone comprising:
generating a transaction record from merchant transaction data and consumer cellular telephone data;
querying for payment through an account associated with the cellular telephone data; and
generating an approval code in correspondence with a response to the query for payment through the account associated with the cellular telephone data.

Claim 15 thus recites generating a transaction record from cellular phone data.

Jalili does disclose using a telephone system's CallerID function to identify the particular user calling the processing center. (Jalili at column 2, lines 41-44). However, Jalili does not disclose any further use of that information. Therefore, Jalili does not disclose generating a transaction record from cellular phone data.

Thus, even accepting *arguendo* the proposed combination so as to include a cellular phone at some point in the system of Jalili, the proposed combination does not arrive at the invention recited in claim 15. Accordingly, under MPEP § 2143.03, claim 15 is patentable over the prior art.

Discussion Re: Patentability of Claims 16 and 17

Claims 16 and 17 depend from claim 15 and include the limitation discussed above with respect to claim 15 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 15, claims 16 and 17 are patentable over the prior art.

Discussion Re: Patentability of Claim 21

Claim 21 recites:

A method of processing data used to obtain approval for a payment associated with a transaction comprising:
receiving from a transaction site a merchant transaction specific merchant data;
receiving from a cellular telephone at the transaction site transaction specific consumer transaction data;
correlating the received transaction specific merchant data and transaction specific consumer transaction data ; and
using the correlated data to obtain approval to charge a payment associated with the transaction to an account associated with the cellular telephone.

Claim 21 thus recites receiving both the merchant transaction data and the customer transaction data from a transaction site. Jalili does not disclose correlating merchant transaction data and customer transaction data received from a single transaction site.

Specifically, Jalili does not correlate two data that are received from a single site. Jalili arguably correlates the incoming telephone call of a user with the list of transactions that has not yet been approved. (Jalili at column 2, lines 49-52). However, the telephone call is not disclosed as originating from the same location as any of the merchants. Rather, Jalili discloses that the merchant and customer are *not* co-located since the merchant is accessed over a public network. (Id. at column 2, lines 15-17). Correlation of two data received from two different sites is not the same as correlation of two data

received from a single site. Therefore, Jalili does not disclose the correlating step of claim 21.

Thus, even accepting *arguendo* the proposed combination so as to include a cellular phone at some point in the system of Jalili, the proposed combination does not arrive at the invention recited in claim 21. Accordingly, under MPEP § 2143.03, claim 21 is patentable over the prior art.

Discussion Re: Patentability of Claims 22 and 23

Claims 22 and 23 depend from claim 21 and include the limitation discussed above with respect to claim 21 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 21, claims 22 and 23 are patentable over the prior art.

B. Claims 4, 5 and 7 were rejected under 35 U.S.C. § 103 as being unpatentable over Kwan in view of U.S. Patent No. 5,778,173 A1 of Apte (hereinafter "Apte"). Claim 6 was rejected under 35 U.S.C. § 103 as being unpatentable over Kwan in view of Apte in further view of Showghi.

Reconsideration of these claims in view of the following remarks is respectfully requested.

Discussion Re: Patentability of Claim 4

1. Claim 4

Claim 4 recites:

A terminal for supporting consumer transactions billed through an account through a cellular telephone comprising:
a transaction data generator for generating transaction data; and
a transaction data display for displaying the generated transaction data with a telephone number so that a consumer may call the telephone number to bill a transaction corresponding to the generated transaction data to an account associated with a cellular telephone number.

Claim 4 thus recites a terminal that includes a transaction data generator and a transaction data display.

2. Kwan Does Not Disclose a Terminal As Claimed.

The Examiner rejected claim 4 based primarily upon Kwan, relying upon Apte only for teaching the display of a telephone number to a user. (Office Action at page 3). Respectfully, the terminal of Kwan does not include a terminal with a transaction data generator and a display.

Specifically, the Examiner identified the system disclosed in paragraphs 25-32 as including the limitations recited in claim 4 of a terminal with both a transaction data generator and a display. However, in paragraph 25, the disclosed terminal is the customer's terminal which is being used to browse the Internet. (Kwan at paragraph 25). Thus, while the terminal relied upon by the Examiner may inherently include a display, there is no teaching in Kwan that the customer terminal includes a transaction generator. Rather, to the extent there is a transaction generator in Kwan, such a transaction generator would be located at the merchant's server since information related to the transaction is transmitted from the merchant's server to the processing center through connection 51. (Kwan at paragraph 25 and FIG. 2). Of course, even assuming that the merchant's server includes a transaction generator, the merchant's server does not include a transaction display that displays a telephone number to the customer.

Therefore, Kwan does not include a terminal that includes both a transaction generator and a display for displaying a telephone number to a customer. Thus, even modifying the system of Kwan with the teaching of Apte as proposed does not arrive at the invention recited in claim 4. Accordingly, under MPEP § 2143.03, claim 4 is patentable over the prior art and the Examiner is respectfully requested to withdraw the rejection of claim 4.

Discussion Re: Patentability of Claims 5-7

Claims 5-7 depend from claim 4 and include the limitation discussed above with respect to claim 4 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 4, claims 5-7 are patentable over the prior art.

C. Claims 11, 12 and 18-20 were rejected under 35 U.S.C. § 103 as being unpatentable over Jalili in view of Kwan in further view of Apte. Reconsideration of these claims in view of the following remarks is respectfully requested.

Discussion Re: Patentability of Claim 11

1. Claim 11

Claim 11 recites:

The system of claim 8, the merchant terminal further comprising:
a transaction data generator for generating transaction data; and
a transaction data display for displaying the generated transaction data with a telephone number so that a consumer may call the telephone number to bill a transaction corresponding to the generated transaction data to an account associated with a cellular telephone number.

Claim 11 thus recites a merchant terminal that includes a transaction data generator and a transaction data display.

2. The Proposed Combination Does Not Include a Merchant Terminal.

The Examiner has rejected claim 11 based primarily upon Jalili and Kwan with reliance on Apte for enabling secure electronic transmission. (Office Action at page 5). Claim 11 depends from claim 8 and thus includes the limitation of a “merchant terminal” that was discussed above with respect to claim 8. As set forth above, the combination of Jalili and Kwan does not teach or suggest a *merchant terminal*.

Thus, even modifying the proposed system of Jalili and Kwan to include the secure electronic transmission as further proposed by the Examiner does not teach or suggest a merchant terminal. Therefore, the proposed modification does not arrive at the invention recited in claim 11. Accordingly, under MPEP § 2143.03, claim 11 is patentable over the prior art and the Examiner is respectfully requested to withdraw the rejection of claim 11.

3. The Proposed Combination Does Not Include a Display at a Merchant Terminal.

Moreover, claim 11 recites a merchant terminal with a “display for displaying the generated transaction data”. Even assuming *arguendo* that the merchant *servers* of Jalili or Kwan are merchant *terminals*, the proposed modification of Jalili and Kwan with the teaching of Apte does not arrive at the invention recited in claim 11.

Specifically, the Examiner has cited to Apte at column 3, lines 39-59 for enabling a secure electronic transaction. (Office Action at page 5). However, within the cited passage, Apte discloses a typical internet connection where a customer uses a computer to connect to the internet “in a conventional manner”. (Apte at column 3, lines 39-41).

Thereafter, information from the vendor is transmitted to the user's computer. (Id. at column 3, lines 43-47). Thus, it is the *customer's* computer at which data is displayed to the customer. The customer's computer is not a merchant terminal.

Therefore, even if Jalili and Kwan are modified as proposed by the Examiner, such modification cannot fairly be said to teach or suggest a merchant terminal with a display. Thus, the proposed modification does not arrive at the invention recited in claim 11 and under MPEP § 2143.03, claim 11 is patentable over the prior art.

4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 11 as being obvious over Jalili in view of Kwan in further view of Apte has been successfully traversed, and the Applicants respectfully submit that the rejection of claim 11 under 35 U.S.C. § 103 should be withdrawn.

Discussion Re: Patentability of Claim 12

Claim 12 depends from claim 11 and includes the limitations discussed above with respect to claim 11 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 11, claim 12 is patentable over the prior art.

Discussion Re: Patentability of Claim 18

1. Claim 18

Claim 18 recites:

The method of claim 16 further comprising:
displaying a telephone number for payment processing at the transaction site so a consumer may call the telephone number with a cellular phone to pay for the consumer transaction through an account associated with the cellular phone.

Claim 18 depends from claim 16 which in turn depends from claim 15. Claim 18 thus recites generation of a transaction record as recited in claim 15. Moreover, as set forth in claim 16, from which claim 18 depends, the generation of merchant data is performed at a “transaction site”. Claim 18 further recites displaying a telephone number “at the transaction site”.

Thus, claim 18 recites generation of a transaction record and that the steps of generation of merchant data and the display of the telephone number both are performed at the same transaction site.

2. The Proposed Combination Does Not Teach Generation of a Transaction Record.

The Examiner has rejected claim 18 based primarily upon Jalili and Kwan with reliance on Apte for enabling secure electronic transmission. (Office Action at page 5). Claim 18 depends from claim 15 and thus includes the limitation of generating a transaction record that was discussed above with respect to claim 15. As set forth above, the combination of Jalili and Kwan does not teach or suggest generating a transaction record.

Thus, even modifying Jalili and Kwan to include the secure electronic transmission of Apte as proposed by the Examiner does not teach or suggest generating a transaction record. Therefore, the proposed modification does not arrive at the invention recited in claim 18. Accordingly, under MPEP § 2143.03, claim 18 is patentable over the prior art and the Examiner is respectfully requested to withdraw the rejection of claim 18.

3. The Proposed Combination Does Not Teach Data Display at the Transaction Site.

Moreover, the proposed modification does not teach or suggest displaying a telephone number at the same site where merchant data is generated as further recited in Claim 18.

Specifically, the Examiner has cited to Apte at column 3, lines 39-59 for enabling a secure electronic transaction. (Office Action at page 5). However, within the cited passage, Apte discloses a typical internet connection where a customer uses a computer to connect to the internet “in a conventional manner”. (Apte at column 3, lines 39-41). Thereafter, information from the vendor is transmitted to the user’s computer. (Id. at column 3, lines 43-47). Thus, the generation of merchant data in Apte is at the *vendor’s* server. However, it is the *customer’s* computer at which data is displayed to the customer. Therefore, Apte teaches that the generation of merchant data and the display of a telephone number occur at two *different* locations. Performance of two steps at two *different* locations is not the same as performance of two steps *at the same location*.

Therefore, even if Jalili and Kwan are modified as proposed by the Examiner, such modification cannot fairly be said to teach or suggest the generation of merchant data and the display of a telephone number at the same transaction site. Thus, the proposed modification does not arrive at the invention recited in claim 18 and under MPEP § 2143.03, claim 18 is patentable over the prior art.

4. Conclusion

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 18 as being obvious over Jalili in view of Kwan in further view of Apte has been successfully traversed, and the Applicants respectfully submit that the rejection of claim 18 under 35 U.S.C. § 103 should be withdrawn.

Discussion Re: Patentability of Claims 19-20

Claims 19-20 depend from claim 18 and include the limitations discussed above with respect to claim 18 and additional limitations. Accordingly, for at least the same reasons set forth above with respect to claim 18, claims 19-20 are patentable over the prior art.

D. Claims 13-14 were rejected under 35 U.S.C. § 103 as being unpatentable over Jalili in view of Kwan in further view of Apte in further view of Showghi or Utsunomiya. The proposed modification does not correct the deficiencies previously identified in the prior art.

Specifically, the Examiner has rejected claims 13 and 14 based primarily upon Jalili and Kwan with reliance on Apte for enabling secure electronic transmission and upon Showghi or Utsunomiya for providing payment options. (Office Action at page 5). Claims 13 and 14 depend from claim 12 and include the limitations discussed above with respect to claim 12 of a merchant terminal and a display at the merchant terminal. However, even modifying Jalili and Kwan with Apte to enable secure electronic

transmission and with Showghi or Utsunomiya to provide payment options does not teach or suggest a merchant terminal or a display at the merchant terminal.

Therefore, even modifying the proposed system of Jalili and Kwan to include the additional modifications proposed by the Examiner does not arrive at the inventions recited in claims 13 and 14. Accordingly, under MPEP § 2143.03, claims 13 and 14 are patentable over the prior art and the Examiner is respectfully requested to withdraw the rejection of claims 13 and 14.

III. Claims 24-25.

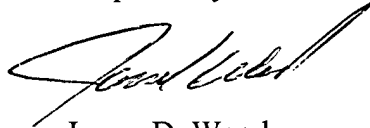
Claims 24-25 have been added. These claims recite novel and non-obvious limitations. Accordingly, claims 24-25 are believed to be allowable over the prior art.

IV. Conclusion

Applicant respectfully requests entry of the amendments and favorable consideration of the application.

A prompt and favorable action on the merits is requested.

Respectfully Submitted,



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